

Date: 9 November 2022  
Enquiries:

Your Ref:  
Our Ref: INWE22/56280

Hon Peter Foster MLC  
Legislative Council Committee Office  
Parliament House  
4 Harvest Terrace  
WEST PERTH WA 6005

Dear Mr Foster

### **PETITION NO. 56 - COMMERCIAL DEVELOPMENT AT PINNAROO POINT, HILLARYS**

I write in relation to the above-mentioned petition and your letter dated 17 October 2022 in which you seek the City's comments on the terms of the petition and the submission from the principal petitioner.

The key matters raised in the petition appear to relate to the suitability of the development site for its intended purpose as a food and beverage facility and the process leading to the approval of the leases and the development application.

Most of the matters raised in this petition have previously been clarified by the City in detailed responses to more than 30 questions to City of Joondalup Council meetings, asked by the principal petitioner, Mr Mitchell Sideris.

### **Incorrect Inferences**

The petition makes several statements that are inconsistent with the actual process undertaken to secure land tenure and development approval for the project.

The petition infers that State Planning Policy 2.6 – Coastal Planning was ignored, when in fact under advice from the Department of Planning Lands and Heritage and in accordance with State Planning Policy 2.6, the City undertook the required Coastal Hazard Risk Management & Adaptation Planning (CHRMAP) specifically for this project.

The petition infers the City misled the Minister regarding community consultation, in stating that there was no community consultation. This is incorrect. The City has undertaken comprehensive consultation on this project as outlined below:

- The City advertised the initial Expression of Interest for the project in state-wide and Joondalup community newspapers and erected four signs on-site at Pinnaroo Point. The local Coast Care Group and other key stakeholders were advised of the Expression of Interest via email.
- In accordance with section 3.58(3) of the *Local Government Act 1995* the City gave local public notice of the proposed disposition of the lease area, inviting submissions for two weeks, from 17 September 2020 to 1 October 2020.

- The Development Application for the proposal was advertised for a period of two weeks to properties in the vicinity of the development site and three signs were erected on site. A total of 172 submissions were received. Of these, 83 objected to the proposal, 85 were supportive of the proposal, and four were neutral. A copy of the submissions was provided to the Department of Planning Lands and Heritage along with the City's recommendation on the Development Application.
- In 2022 advertising took place on the liquor licence for the development. A sign was erected on site for two weeks and the application was advertised on the [Department of Local Government, Sport and Cultural Industries website](#). The Liquor licence has since been conditionally granted.

## Responses to petition

The City's general comments on the terms of the petition are as follows:

The petitioners raise several "fundamental Governance issues" as outlined below with a response from the City:

*"1. Why an infrastructure development proposal would be pursued, the City's current Coastal Hazard Map 5 has the development site within the 65-year line which leaves this site vulnerable within the initial lease period".*

The Lease was approved following due consideration of a CHRMAP which was undertaken in 2016.

*"2. Why the initial concept was required to change (transportable containers) to a conventional building construction, non-moveable design as stipulated by Planning policies".*

Initial concept designs for the project included recycled sea containers but the development was never intended to be 'transportable'.

*3. Why a Council and Administration would pursue a development proposal at Pinnaroo where the City only received a financial return on its investment that effectively broke even over the 42 year term, whilst the Sub-lease of the site receives an estimated multi \$Million return over the same 42 year period. See Attachment 13".*

The development proposal responds to the project philosophy and parameters as endorsed by the City of Joondalup Council. The project aims to deliver a facility that will advance the City's ability to attract visitors/tourists for entertainment and socialising, provide more employment, increase business opportunities, a greater awareness of the City's natural assets and a greater social and economic contribution by tourists.

## Responses to submission from the lead petitioner

The City's comments on the requests by the principal petitioner are as follows:

*"1. Review the various approval processes that allowed a Crown lease 0463422 for a commercial development".*

The City undertook a rigorous process to identify the site and to seek the relevant approvals. The City liaised extensively with the State Government since the project's inception in 2013 to ensure that all relevant statutory and regulatory approvals were obtained. The land the subject of the development is Crown Reserve with a management order to the City of Joondalup, which includes the power to lease. Furthermore, the development proposal does not involve any clearing of native vegetation and the bushland adjacent to the development will continue to be managed by the City as a Parks and Recreation Reservation.

*"2. Determine if the approval satisfied all public sector policy, practice and schemes".*

The City obtained the necessary approvals in consultation with the Western Australian Planning Committee (WAPC) and the Minister for Lands.

*“3. Determine if there is a cost recovery process available to taxpayers of Western Australia for a decision process that was contrary to sound conservation and scientific evidence related coastal erosion effects at Pinnaroo Point”.*

In accordance with State Planning Policy 2.6 the City undertook the required CHRMAP for Pinnaroo Point. This information was provided to the state government as required and assessed by them.

*“4. Determine why the 1976 EPA Report TP 119 was ignored”.*

In accordance with State Planning Policy 2.6 the City undertook the required CHRMAP for Pinnaroo Point. This information was provided to state government as required and assessed by them.

*“5. Determine why this section of coastline subject to high risk coastal erosion forces was not being managed in accordance with recommendations of EPA Report TP 119 (1976)”.*

This section of coastline is managed by the City in accordance with State Planning Policy 2.6 - Coastal Planning which requires local governments to identify coastal hazard areas and to inform future and current property owners in coastal hazard areas of the risk. The City undertakes several management activities to manage erosion on its beaches including post-storm checks and maintenance, management of access ways to ensure safe access, dune restoration and stabilisation and implementation of an annual sand bypassing program. To monitor erosion the City undertakes coastal monitoring on a biannual basis including shoreline mapping from aerial photography, beach profile surveys and photo monitoring.

*“6. Determine why WAPC Development Control Policy DC 5.3 and elements within were Ignored”.*

A business case for the development was provided to the Department of Planning Lands and Heritage for assessment prior to the leases and development approval being granted.

*“7. Determine why State Coastal Planning Policy SPP 2.6 was ignored”.*

In accordance with State Planning Policy 2.6 the City undertook the required CHRMAP.

*“8. Determine why the WAPC/Statutory Planning Committee did not reference the Intergovernmental Panel on Climate Change's (IPCC) (The Physical Science Basis) first instalment of the sixth Assessment Report (AR6) WG1 Report (09 August 2021) (The Physical Science Basis) in its approval considerations”.*

In accordance with State Planning Policy 2.6 the City undertook the required CHRMAP for Pinnaroo Point. This CHRMAP was provided to state government as required and assessed by them as part of the development application process.

*“9. Determine why the WAPC/Statutory Planning Committee did not reference its own Position Statement: Dark sky and astro-tourism in its approval considerations”.*

This is a matter for the WAPC/Statutory Planning Committee.

*“10. Reconsider the lease agreement, 0463422, and reaffirm the aspirations and values of the Parliament and State Government that purchased the Whitford Nodes to establish and preserve the land as a significant Coastal Regional and passive Recreational Parkland”.*

The Crown lease commenced on 1 July 2020. In accordance with this lease the City entered a sublease with Sandgate (WA) Pty Ltd. Ministerial consent has been provided for the sublease. The leases are considered to be legally binding and both the City and Sandgate (WA) Pty Ltd have invested significant resources into this project to date, therefore the City does not support the notion of reconsidering the lease agreement.

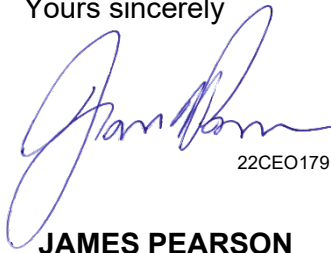
The City is satisfied it embarked on a robust project investigation and approvals process, including environmental impact considerations and investigations into the suitability of the site in relation to coastal processes.

The Crown Lease was prepared in response to the State Government's various legislation relating to the suitability of the land for the nature of the proposed development.

The City is satisfied that due consideration was given to financial and economic development opportunities for the project in line with the project vision.

If you have any further queries, please contact Scott Collins, Senior Projects Officer on 9400 4292 or email [scott.collins@joondalup.wa.gov.au](mailto:scott.collins@joondalup.wa.gov.au).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'James Pearson', with a stylized flourish at the end.

22CEO179

**JAMES PEARSON**  
Chief Executive Officer